

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,)	
)	CRIMINAL No. 2:97-453-DCN
vs.)	
)	<u>ORDER and OPINION</u>
PATRICIA DERBAUM,)	
)	
Defendant.)	
_____)	

The matter is before the court pursuant to defendant 's Motion Requesting A Certificate of Appealability. This motion was filed on November 4, 2005, and the Government's response was filed on December 6, 2005.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To meet this burden an applicant must show that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).¹

Here, this court has previously concluded that Derbaum's claims are without merit. Derbaum has raised no new arguments which cause the court to view the issues as debatable, conclude that the issues could have been resolved differently, or find that the issues raise questions which warrant further review. For the reasons stated in the October 21, 2005 order,

¹When the denial of relief is based upon procedural grounds, a certificate of appealability should issue if "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack*, 529 U.S. at 485.

this court finds that defendant has not made a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253.

It is therefore **ORDERED**, for the foregoing reasons, that Derbaum’s Motion Requesting Certificate of Appealability is hereby **DENIED**.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', is written over a horizontal line.

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

Charleston, South Carolina
December 14, 2005